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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,330	05/14/2003	Matthew Grady McGoff	CM2344M	1459

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,330

Applicant(s)

MCGOFF ET AL.

Examiner

Brian P. Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-27, 34-38 and 42-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-27, 34-38 and 42-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed September 6, 2005. Applicant has amended claims 23-27, 35-36, 38, 42, and 44-46. Claims 28-33, and 39-41 have been cancelled. New claims 47-51 have been added. Currently, claims 23-27, 34-38, and 42-51 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 20050602.
3. The objection of claims 23-27 and 34-46 is withdrawn in view of applicant's amendments and remarks.
4. The rejection of claims 23-38 and 40-46 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Susuki et al, DE 2126161, is withdrawn in view of applicant's amendments and remarks.
5. The rejection of claims 23-27 and 34-38 and 42-46 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Guerri et al, U.S. Patent No. 4,176,079, is maintained for the reasons of record.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 47-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Instant claims 47 and 50 are rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "active ingredient". The examiner notes that independent claim 23, from which claims 47 and 50 depend from, requires that the active ingredient must be an enzyme, whereas claims 47 and 50 do not require the active ingredient to be an enzyme. Therefore, it is unclear if the active ingredient recited in instant claims 47 and 50 must include an enzyme. Appropriate correction and/or clarification is required.

9. Instant claims 48-49 and 51 are rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1751

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 50-51 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Guerry et al, U.S. Patent No. 4,176,079.

Guerry et al, U.S. Patent No. 4,176,079, discloses a water-soluble enzyme containing article comprising an enzyme dispersed in a water-soluble resin film (see abstract). It is further taught by Guerry et al that suitable water-soluble resin films include polyvinyl alcohol (see col. 2, lines 48-65), that the article also includes plasticizers (see col. 3, lines 52-58), that the articles are made by mixing and drying the components (see col. 15, lines 25-61), and that the films have a particle size of about 3 millimeters (see col. 17, lines 61-64 and 18, lines 59-65), per the requirements of the instant invention. Specifically, note Examples 1-30. The examiner asserts that the polyvinyl alcohol component disclosed by Guerry et al would inherently meet the glass transition temperature and elastic modulus requirements of the instant invention, since

Art Unit: 1751

applicant's own specification indicates that polyvinyl alcohol is a preferred polymeric material that meets these properties (see page 12 of the instant specification).

Therefore, instant claims 50-51 are anticipated by Guerry et al, U.S. Patent No. 4,176,079.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

Response to Arguments

13. Applicant's arguments filed September 6, 2005 have been fully considered but they are not persuasive.

Applicant argues that Guerry et al, U.S. Patent No. 4,176,079, does not anticipate or render obvious the instant claims, since Guerry et al do not teach or suggest in general an article that has a mean particle size of about 50 to about 4000 microns. However, the examiner respectfully disagrees. Specifically, the examiner notes that Guerry et al clearly teaches that their films have a size of about 3 millimeters (i.e. 3000 microns; see col. 17, lines 61-64 and 18, lines 59-65 of Guerry et al), as required in the instant invention.

Conclusion

Art Unit: 1751

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

BPM

Brian Mruk
November 17, 2005

Brian P. Mruk

Brian P. Mruk
Primary Examiner
Tech Center 1700